

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 30, 2003 at 3 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Ken (Kim) Hansen (D)
Sen. Dale Mahlum (R)
Sen. Trudi Schmidt (D)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Debbie Shea (D)

Members Absent: None.

Staff Present: Jane M. Hayden, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 169, 1/30/2003
Action: SJ 4 -- Motion to create a bill or resolution to be presented to Montana's Congressional Delegation
Executive Action: SB 169 on 02/04/03 from SB 237 Tape

Sponsor: **SENATOR DALE MAHLUM**

Proponents: **Tom Bugni**, President of the Skyline Sportsmen Association in Butte
Ben Deeble, Hunters and Landowners Association

Fred Easy, Prickly Pear Sportsmen
Bill Holdorf, Director of the Skyline Sportsmen Association in Butte
Robert C. Lucas, Big Sky Upland Bird Association
Jim McCollum, for Himself
Jim McDermond, Russell Country Sportsmen
Ron Moody, Montana Wildlife Federation
Bill Orsello, for Himself
David A. Pavlicek, Member of the Public Access Committee of the Montana Wildlife Federation
Jack Pucket, Big Sky Upland Bird Association
Tony Schoonen, State Land/Public Land Access

Opponents:

John Bloomquist, Montana Stockgrowers Association
Tom Bugni, President of the Skyline Sportsmen Association in Butte
Marion Hanson, for Senator Aubyn Curtiss, SD 44
Tom Lowry, Stockgrowers Land Use Committee
John Reinhardt, Landowner--for Himself
Phil Rostad, Meagher County Livestock Association
Nancy Schlepp, Montana Farm Bureau
John Semple, Montana Woolgrowers and Montana Cattlewomen Associations
Meg Smith, for Herself
Deanna Styren, WIFF, Montana Farmers Union

SENATOR MIKE SPRAGUE explained the status of SJ 4, the Wolf Bill Resolution. The crucial issue is that the Endangered Species Act (ESA) has been carried out to prevent citizens from hazing wolves that are threatening their livestock, pets, and families. The ESA was written for the eagle, but is being applied to the wolf, and citizen do not even have the right to chase wolves off their private property. Montana's constitution is very strong on private property rights, so **SENATOR SPRAGUE** talked with **Greg Petesch, Director of Legal Services Office of the Legislative Branch**, to consider the possibility of bringing a legislative resolution to Montana's congressional delegation. Montana may have a legal issue with the Federal Government because of the way the ESA is being enforced, Montana citizens are helpless to defend themselves on private property.

SENATOR SPRAGUE asked for the authority from the Committee to have **Mr. Petesch** work on a Committee Resolution. If the Federal Government does not come up with a way to change the ESA to protect private property, Montana may be forced to sue

the Federal Government for damages. **SENATOR SPRAGUE** asked the Committee's permission to pursue this action and stated that the Resolution would need a two-thirds vote. For **Greg Petesch** to spend time researching the avenues to take, the Senate Fish and Game Committee has to approve it. **SENATOR SPRAGUE** thought that whatever action was taken concerning the wolf, the same action would apply to the grizzly bear. **SENATOR SPRAGUE** stated that it was unimaginable that a private property owner could not protect his livestock and family from an attacking wolf or grizzly bear.

Opening Statement by Sponsor:

SENATOR DALE MAHLUM testified that SB 169 came about when some of his constituents made him aware that they were having problems in obtaining landowner permission to hunt upland game birds. SB 169 provides that landowner permission is required to hunt on private property if the property is posted with signs identifying the landowner.

Proponents' Testimony:

Bob Lucas, Big Sky Upland Bird Association, of Missoula, testified he has been bird hunting for sixty years and training bird dogs and bird hunts are central to his life. An editorial in The Missoulian came out with a strong endorsement of SB 169. SB 169 is a very moderate and reasonable bill that enables the conscientious hunter to know whom to contact. The bill asks for the bare minimum for the betterment of communication between sportsmen and landowners.

In 1997, SB 171, concerning trespass by hunters, was passed into law. Subsequently, according to the state game wardens there was no increase in trespass complaints although the number of hunters increased. Therefore, SB 171 was not effective in solving the trespassing problem. Presently, only about twenty percent of the farms and ranches in Montana that were here at their peak in the 1920's exist now. The farmers and ranchers that endured bought much the land that the others gave up, often resulting in the owned parcels being discontinuous. This causes some difficulty in finding out from whom to get permission to hunt. Montana is the only state in our region that makes it a crime to hunt on non-posted land. All members of the Consensus Council (hunters and landowners) agreed that hunters should ask permission to hunt on private land, but the problem is whom to ask. SB 169 would solve this problem by minimal identification

by the landowners. This change would help young people become enthusiastic about hunting again because right now they are intimidated by not knowing from whom to get permission. SB 169 would also change Montana from a hunter-hostile state to a more hunter-friendly state.

Jim McDermond, Russell County Sportsmen, testified that SB 169 was a very reasonable measure that would correct the inequities of the Montana trespass law. The current law was enacted in 1999, and was ramrodded through by its sponsor in retaliation for Montana sportsmen supporting stricter game farm regulations through Initiative 143. Our current law is a rigid trespass bill directed only at hunters that does not allow for honest or inadvertent mistakes in boundary identification between public and private land. SB 171 was touted as a common courtesy law that would promote landowner-sportsmen communication. It does not. The current law removed all posting requirements from the landowner and shifted all land identification responsibility to the general citizenry. How does, "it is for me to know and you to find out" encourage better communication? Does this promote common courtesy by being a good neighbor in the historic Montana tradition?

Jim McDermond stated that Montana now has one of the most stringent trespass laws of any of the surrounding states. Before 1999, when the current law was enacted, Montana had trespass laws equivalent to all our surrounding Western states and Canadian provinces. Sportsmen were required to ask permission of landowners whether the land was posted or not. The law worked well and was accepted by both landowners and sportsmen. For ten years preceding 1999, we had no substantial increase in trespass or game-law violations or rural vandalism. Given these facts, are Montana recreationists so bad that we must now live with even tougher trespass laws? No, the real problem under current law is lack of on-the-ground identification of private and public lands. We need more identification of boundaries, not less. Just as the public is responsible for obtaining permission for access to private land, landowners should share the responsibility for marking the boundaries that only they know best. Signs for posting are furnished free-of-charge from the Department of Fish, Wildlife, and Parks (FWP). Montana hunters have no problem seeking permission for recreational activity, but we just need to know whom to ask. This attitude is evident by the number of "Ask First" bumper stickers on sportsmen's vehicles. A truckload of maps does not promote or provide a fraction of the communication potential that just one on-the-ground sign does to identify the landowner's name, address and phone number. Common courtesy and communication work on both sides of the fence. SB 169 would

encourage communication between landowners and recreationists and help restore the Montana way-of-life that is the very reason most of us choose to live here.

Jack Pucket, Big Sky Upland Game Bird Association, testified that hunters respect the private property rights of landowners and their right to control access to their land. It is in the spirit of better communication that his Association supports SB 169. As originally passed, SB 171 stated that maintaining good communication and cooperation between hunters and landowners was essential. Unfortunately, there was no provision in SB 171 for the landowners or lessees to identify themselves, so how can a well-meaning hunter ask permission to hunt if there is no way to know who they are? We have gone to the courthouse, gotten maps and booklets, however, that helps only a little and when landowners live out of state or in town, it becomes doubly hard. There was a hunting place west of Choteau that we had hunted for years until SB 171 was passed, so we went to the courthouse and got a list of names and a map. We looked through the phone books of four cities and we could not find any of the owners. We have not hunted there since. It is doubly hard if there is a lessee because their names are not listed anywhere. SB 169 asks the landowner or lessee to post signs on the corners of their property. In a spirit of cooperation, we ask that the Committee pass SB 169.

Ben Deeble, Hunters and Landowners Association, testified that he and his Association support SB 169. **Mr. Deeble** read his written exhibit testimony, verbatim.

Jim McCollum, testified he supports SB 169. **Mr. McCollum** read his written exhibit testimony, verbatim. *{Tape: 1; Side: B}*

Fred Easy, Prickly Pear Sportsmen Association, testified that his Association comprises 950 members, and that he manages a rifle range. **Mr. Easy** stated that he had been hunting since 1968, and had hunted in many areas throughout Montana. As the access situation has changed, it has become very difficult to find places to hunt. There are places that he has hunted for 25 to 30 years, and he has no problem getting permission there. However, if he wants to try a new location, he spends half his hunting time finding landowners to get permission. Having informational signs posted would be helpful. We hunters really need SB 169 passed, and would appreciate it.

Tony Schoonen, Public Lands Access Association, testified that his Association was for SB 169. Fortunately, where he lives in southwest Montana, he knows many landowners and can call to get permission to hunt. Skyline Sportsmen representatives went out with the Federal agencies and the private landowner to figure out property boundaries and both the Forest Service and the private landowners were off regarding the actual boundaries. Really, nobody knows the boundaries. The Forest Service used a GPS System to determine them because there had been some trespass problems. Without a GPS System, it is difficult for even the landowners to know where the quarter-mile stakes and private property lines are. The point is, if the landowners do not know where the boundaries are, how are sportsmen supposed to know them. **Tony Schoonen** explained that he was learning now to read maps because he does not want to be cited for trespass. He was bird hunting in the Glasgow area, and drove for miles and miles where there were no fences. It would be good if there were landowners names on posted signs, so they could be contacted before a sportsman goes hunting.

Bill Orsello, Board Member of the Montana Wildlife Federation, testified that one problem he has had is reconciling the difference between the trespass regulations under SB 169, and the trespass regulations for the non-hunters in the State of Montana. If hunters inadvertently stray from public lands onto private lands, or land on which they have permission to hunt onto unmarked adjacent property, hunters are violating the trespass law and subject to fines and penalties. If he were to drive into the countryside, set up his clay bird thrower on unmarked private property, take out his shotgun and shoot clay birds, he is not violating any law up to the point when the landowner asks him to leave. It seems inconsistent that the purposes of this law are to create better relationships between sportsmen and private landowners when sportsmen cannot contact the landowners or identify their provenance. Concerning trespass regulations, the laws are very lenient with the landowners about posting their property for regular trespass--they only need to orange paint their fenceposts and entry point posts. Sportsmen have come to the legislature repeatedly asking for minimal recognition of private property boundaries. The people that are testifying are not outlaws, most of them are the conscientious, well-mannered game hunters, but they are frustrated with the present situation.

Tom Bugni, President of the Skyline Sportsmen Association in Butte, testified that since SB 171 (the trespass law) has gone into effect he has seen a change in sportsmen's opportunities to hunt birds. The law has always stated that you have to have permission to hunt big game on private property because safety concerns. However, since the trespass law, sportsmen are having

trouble locating landowners so they might hunt birds. Many young people are giving up bird hunting because of this. There are free signs furnished by FWP, and our Association is willing to purchase signs for the landowner to post, too. If the landowners want hunting only in certain areas, post it, or if they do not want any hunting at all, post that. Sportsmen do not want to have confrontations with landowners. They just want to be good neighbors. Make the regulations simple because many private property owners do not know where their boundaries are.

Bill Holdorf, Director of the Skyline Sportsmen Association in Butte, testified that he wants to be able to hunt on public land, not private land, but what he does not want to do is get in trouble for accidentally trespassing on private land. He does not think that having private property owners post signs is a lot to ask. Property lines are hard to identify even with the maps that he takes with him to hunt. What he does not understand is why the opponents of SB 169 do not want to mark the property, so he hopes it is not just to keep him off public land. Nevertheless, that is what it is doing.

Dave Pavlicek, Member of the Public Access Committee for the Montana Wildlife Federation, testified that Block Management Program lands are all well marked by green signs near the roads, and then hunters do not have any problems. He was threatened by a landowner that if he hunted on the Block Management land next to landowner's property and accidentally trespassed, the landowner would immediately call the wardens. SB 169 makes it easy to identify boundaries and that would encourage more hunters. If Montana loses the adult hunters, it will lose the youth hunters as well. There is already a nationwide decline in youth sportsmen.

Ron Moody, Billings Rod and Gun Club, testified that he has been concerned for four years since the trespassing issue began for the harm that it could do to the relationship between rural property owners and urban hunters. He has the idea that whatever happens to family farming and family agriculture in the future is going to be the same thing that happens to public hunting in the future. These two institutions of our American way-of-life are going to share a common fate. We should be in harmony with each other to support each other for a common goal. Having visited extensively with both hunters and rural landowners, he has come to the conclusion that signs are a cultural divide between the rural person and city (urban) person. Rural people are not used to signs because they are not needed to navigate in their country communities. However, city people live by signs--they could not navigate well in their environment without them. This is a purely subjective human perception of how each navigates in these

different worlds. Because of these divergent viewpoints, these two groups need a better conversation than they have had.

After the current trespass law passed, **Ron Moody** took two young people antelope hunting. They were navigating by maps, looking for public land. They saw a herd of antelope, so they drove back and forth on the highway looking for landmarks to figure out if the herd was on public land. From using landmarks, they decided that the antelope were bedded down on a big triangle of Bureau of Land Management (BLM) land. As they took their rifles out to head for the fence where the antelope were, an FWP Conservation Officer pulled up behind them and asked them if they were intending to hunt the antelope in the field. The Conservation Officer asked them if they knew for sure that they were on public land. **Mr. Moody** showed the Officer on the map the landmarks they had used to determine it was public land. The Officer said that they had done quite a good job, but warned them that if the private landowner of the adjacent property complained to him if they accidentally crossed onto his property, then the Officer would issue **Mr. Moody** and his companions a citation. Because of this, they decided against hunting those antelope. The two young hunters left with a diminished sense of the fairness of the relationship between hunters and private landowners.

Ron Mashek, Sportsman, submitted written testimony in support of SB 169.

Opponents' Testimony:

John Bloomquist, Montana Stockgrowers Association, testified that SB 169 is worse than the 1997 bill, SB 171, because both bird hunting and big game hunting would be open on any property not posted. Hunters would not have to ask permission to hunt, unless the property was posted. SB 169 places the entire burden and expense for posting land on the property owner. Part of SB 171 was a mandate that FWP create land ownership maps.

Mr. Bloomquist did not know if the mapping process was ever completed. One problem his Association has with SB 169 is how it defines the term "a public road." There is much unfenced area between public and private land in Montana, and landowners would have to post those areas, too. The "Ask First" bumper stickers reflect the very simple notion of common courtesy, and the common sense idea of if a hunter does not have permission, then the hunter cannot hunt on that property.

Meg Smith, Divide, Montana, testified against passing SB 169. **Ms. Smith** read her written testimony from verbatim.

John Semple, Montana Cattlemen's Association, and speaking for Bob Gilbert, Montana Woolgrowers Association, testified that these two Associations concur with previous opponents' testimony. He thinks that the second "whereas" should be the actual title of SB 169.

Nancy Schlepp, Montana Farm Bureau Federation, testified that she greatly respects **SENATOR DALE MAHLUM**, and empathizes with all the hunters and proponents in the room because they are all good actors and that they all want to help. Nevertheless, it only takes one bad actor to change all that. She and her husband are fifth generation ranchers in Ringling, Montana, and their ranch borders the Highline, two county roads, and State land. Her dad has always allowed hunting to anyone that asked, and will continue to do so. His argument is that those that are good hunters ask, and the ones he has to worry about, do not. The bad hunters have left gates open and let their cattle onto the highway, they have driven their tractor that was in a fenced yard down a ravine, they have killed livestock, trampled forage, and cut fences. However, her father still lets people hunt on their property who ask permission.

So why would they have hunters ask for permission instead of posting? We know our boundaries, and we direct hunters where they can go and why they can go there. Usually it is because we have livestock in a certain area, we have irrigation in a certain area, or we know where the game is. **Ms. Schlepp** directs hunters to where the game is and goes over their rules for hunting on their property (and she cannot put all of that on a sign). It just makes for a good relationship, and she enjoys visiting with the hunters. She agrees with **Ron Moody** concerning the huge disconnection between urban and rural people, but unfortunately SB 169 contributes to the disconnection instead of helps the hunters and ranchers come closer together. Hunters can get maps and find the owners. One of her friends has permission from private landowners by March to hunt in the Fall. The signs her family has put up have been taken down by bad hunters. She disagrees that there is a lack of young hunters, and states that about one-half of the hunters with whom she deals are young people. Even more notable is that many of these young hunters are from the cities, and not just the rural areas.

Tom Lowry, representing the Fergus County Livestock Association, and the Land Use Committee of the Montana Stock-

growers Association, testified that his ranch is one of the smaller ranchers in his area. His ranch has 11,000 acres and has 100 quarter-mile posts on just that much acreage. Most of his neighbors have 40,000 acres and up. Most of his area's ranchers allow hunting on their places. They even encourage hunting which helps with wildlife problems and keeps down hay damage. They need to know who the hunters are and where they are going, so all can hunt easily. On his acreage there are four miles of county road that is not fenced on either side, and SB 169 does not explain how they should post the county road. **Tom Lowry** explained that identifying the private property owners in his area is easy because there is a list of names on the county road of everyone that lives on that road. Besides, nearly every mailbox on that road has a name on it. Several ranches identify their ranch name as soon as someone crosses the cattleguard going into the property. The Department of Natural Resources and Conservation (DNRC) has maps of each of their ranches and where the property lines are. Some ranchers do not know where all their property lines are, but most have a good idea. There is State land on his acreage that is not fenced, and SB 169 gives no instruction about what to do to post those corners. Damage to signs is a large problem. Signs are not going to matter to the 10 percent of the hunters that cause the problems, even steel posts with signs on them do not stop them from going where they are not supposed to. If bad hunting behavior continues, the signs they will be putting up will be "No Hunting" signs, and not signs showing property boundaries.

Phil Rostad, Meagher County Livestock Association, testified that the landowners are responsible for weed and fire control, and other land maintenance, but SB 169 would take away their control over who has access to their property. Weeds are a big concern. Signs will not control access because just as **Tom Lowry** stated, stretches go on for miles and miles between corner posts. Posting the corners will not address it because the hunters will go right through the middle, and then how does a person determine who is in the wrong.

Deanna Styren, WIFE, Montana Farmers Union, testified that she represents organizations that oppose SB 169 because it infringes on property rights and creates a huge burden on landowners in expense and time. She sympathizes with the hunters because it is hard to figure out property lines. She believes many of the problems could be resolved by the landowner and sportsmen's groups getting together without mandating a new responsibility onto property owners. Posting all the diverse parcels of land would be a big price to pay.

Tom Bugni, President of the Skyline Sportsmen Association in Butte, testified that he supports SB 169 as a proponent, but supports it for bird hunting only, not for big game hunting.

John W. Reinhardt, Landowner, Wise River, Montana, submitted written testimony opposing SB 169.

Marian Hanson, former Legislative Representative, submitted written testimony opposing SB 169.

Matt Knox, Member of Montana Stockgrowers Association, submitted written testimony opposing SB 169._

Informational Testimony:

Jeff Hagener, Director of the Department of Fish, Wildlife, and Parks (FWP), testified that in 1965, the first law was enacted to mandate that big game hunters obtain permission to hunt on private land. In 1999, the law was changed to include all types of game animals. In the past four years, FWP has worked with the Department of Administration and the Natural Resource Information System Website, and has made available maps that identify holdings as small as residential parcels for all counties in the State. In 2000, FWP began producing a directory of Montana maps that provide county-by-county listings of land ownership, and explains how to obtain them. Historically, FWP has provided free signs to landowners who do wish to mark their land including names, phone numbers, and other contact information. FWP also provides signs put out by some landowners that say "Hunters welcome, no permission required." Before SB 169 is passed, it needs clarification on the posting requirements, so that FWP can enforce it fairly and properly. FWP would like to support any action that would facilitate better relationships between hunters and landowners for all the reasons previously heard.

Questions from Committee Members and Responses:

SENATOR MIKE SPRAGUE asked **Jeff Hagener** who receives the

\$25 fine generated by this law, does the violation go on your hunting record, and does FWP keep track of it. **Mr. Hagener** explained that the Justice Courts receive the fine and probably have some record of any violation.

SENATOR TRUDI SCHMIDT asked **Nancy Schlepp** what she would suggest as a compromise. **Ms. Schlepp** suggested that hunter and landowner groups get together and compile lists of landowners' who permit hunting on their property and their phone numbers and property boundaries. Landowners would feel more secure if hunters that ask permission would provide their license plate numbers to them.

SENATOR SCHMIDT asked **Bob Lucas** about the 1998 Consensus Council that met in Helena six or seven times. **Mr. Lucas** stated that the hunters want to ask permission, but it seems that a hunter must carry around maps, a GPS unit, a cell phone, a laptop computer, a stack of phone books just to find landowners. The Consensus Council did work hard and struggled with these issues unsuccessfully.

SENATOR KEN "KIM" HANSEN stated that he dreads the hunting season and never turns anyone down to hunt on his property. **SENATOR HANSEN** stated that he respects **SENATOR DALE MAHLUM**, but thinks that SB 169 is a bad bill and hunters should know where the property owner resides. **SENATOR HANSEN** continued by saying that he has weed control and drought problems, and does not want to allow hunters in because of the drought right now.

SENATOR GREG BARKUS asked **Bob Lucas** how to resolve the issue of signs being torn down. **Mr. Lucas** stated that they hunt in North Dakota for pheasants every year. There the landowner has to put up a sign every half mile. They hunt on the property of a landowner that owns 6,000-7,000 acres scattered over three counties, and the signs are only valid for one year (they have to be dated). **Mr. Lucas** stated that he had not heard the landowner complain about putting up signs. People should not tear down signs, but in North Dakota doing so is illegal and carries serious penalties. **SENATOR BARKUS** asked **Bob Lucas** why does painting with orange paint not fulfill the notification requirement. **Mr. Lucas** responded that SB 171 made using orange paint, passe. The orange paint would tell hunters that they need to ask permission, but does not indicate from whom to ask permission or where they are located. **SENATOR BARKUS** asked **Bob Lucas** how to facilitate asking permission and how to post unfenced land. **Mr. Lucas** explained that those are big problems, and that he does not have a quick solution for them.

SENATOR GREG BARKUS asked **Bill Orsello** if there had been

any movement to require posting of Federal and State lands.

Mr. Orsello stated that **U.S. SENATOR MAX BAUCUS** has tried to get legislation passed to do that. The Federal Government already posts the National Forest Land. **SENATOR BARKUS** asked **Mr. Orsello** about the time that Montana put a prohibition on nonresident hunters that kept them from hunting in the first week of the season. **SENATOR BARKUS** passed around an example of those signs. **Mr. Orsello** stated that they opposed this FWP proposal.

SENATOR TRUDI SCHMIDT asked **Meg Smith** about signs being torn down. **Ms. Smith** testified that every day there are many laws broken by hunters on their property. Wardens are our best friends, but sometimes they ask wardens not to ticket people on their property because they might have made an unintentional mistake. The people who tear down and run over signs are usually not caught. There are not enough wardens to take care of the problems the landowners are having. **SENATOR SCHMIDT** asked **Ms. Smith** if she had any ideas on how to get to a compromise with this situation. **Ms. Smith** responded that everyone says they are NOT members of the Montana Wildlife Federation or Skyline Sportsmen just to get to hunt on their property. She feels that FWP is responsible for the wildlife in the State of Montana, so these problems should not all be the burdens of the hunter or the landowner. **Meg Smith** feels that the fee for hunting in Montana should be dramatically increased because if hunters had to pay more they might have more respect for landowners.

Closing by Sponsor:

SENATOR DALE MAHLUM stated that **Tom Lowry** had some really good ideas, an exchange of thoughts, and asked good questions about SB 169. **SENATOR MAHLUM** agreed with **Mr. Lowry** that ten percent of the hunters are the bad apples. **SENATOR MAHLUM** praised **Nancy Schlepp** for her good mind and willingness to find a consensus on these issues. **SENATOR MAHLUM** stated that the idea that **Meg Smith** had about the hunters and landowners cooperating with each other and both working on posting signs was needed. **SENATOR MAHLUM** wants to amend SB 169 only to apply to bird hunting. The proponents want to be able to go to the landowner to ask to hunt on their land and prove that they are good people, not one of the ten percenters. SB 169 needs some work, needs to go into the blender, so everyone is more pleased. Let us get rid of the ten percenters. Perhaps the Committee can amend SB 169 so it can take care of both the hunters and the landowners.

{Tape: 3; Side: A of SB 169 Tape}

DISCUSSION OF SJ 4

SENATOR MIKE SPRAGUE initiated a discussion of SJR 4 (the Wolf Bill) concerning how to go about sending a message to the Federal Government about a quick solution to Montana's problem. **SENATOR SPRAGUE** asked the Committee's permission to ask **Greg Petesch** and **Chris Tweeten** to research the property rights provision of the Montana State Constitution as to the application of the Endangered Species Act (ESA). **SENATOR SPRAGUE** wants to create a Committee Bill that would request that the Federal Government not apply the ESA to the wolf. **SENATOR SPRAGUE** stated that he did not want whatever the Committee does to interfere with what FWP is doing to delist the wolf. The Committee needs to challenge the Federal Government by telling them that Montanans have a right to protect themselves, their families, their livestock and pets on their private property. This Committee Bill or Resolution would be forwarded to Montana's Congressional delegation. If the Federal Government is not willing to change the Endangered Species Act so Montanans can defend themselves from the wolf and the grizzly bear, then the Federal Government owes the private property owner for any damages incurred by its policies. As a Committee, let **Greg Petesch** and **Chris Tweeten** create a document that the Committee can vote on. The wolves are exponentially increasing their numbers and we are losing this battle.

SENATOR GREG BARKUS made the motion that the Committee explores the possibility of a bill or resolution.

SENATOR DAN MCGEE made a motion to amend **SENATOR BARKUS'** motion to order a bill draft request to draw a bill up.

Motion/Vote: SEN. MCGEE moved the amended motion concerning SJ 4 to order a bill draft request to be drawn up by Greg Petesch and Chris Tweeten. Motion passed 8-0.

EXECUTIVE ACTION SB 169 on 02/04/03

{Tape: 1; Side: B; on SB 237 Tape}

Discussion: **SENATOR GREG BARKUS** moved that SB 169 be INDEFINITELY POSTPONED. Discussion between **SENATORS BALES, BARKUS, HANSEN, and SCHMIDT**. **SENATOR BARKUS** stated even though he is an avid bird hunter, felt this was a horrible piece of legislation. **SENATOR BARKUS** further stated that SB 169 would cut off all opportunity for bird hunters and that good hunters already ask first and try to understand where the boundaries are.

SENATOR TRUDI SCHMIDT stated that SB 169 was trying to address the "bad" ten percent of all hunters and was shocked by the threatening correspondence she had received from people if SB 169 passed. **SENATOR KEITH BALES** stated that many hunters say they asked to hunt on private property, but really did not, until the law was passed to mandate it, and he thinks SB 169 is a poor bill. **SENATOR KEN HANSEN** urged the Committee to vote "No" on SB 169 because it was not a good bill and would cause more controversy between landowners and hunters. **SENATOR HANSEN** stated that he is both. **SENATOR JOE TROPILA** asked **SENATOR DALE MAHLUM** if he was going to amend this bill. **SENATOR MAHLUM** answered in the negative.

Motion/Vote: **SENATOR GREG BARKUS** moved that SB 169 BE INDEFINITELY POSTPONED. Motion carried 4-3.

Those voting to Indefinitely Postpone SB 169 were **SENATORS BALES, BARKUS, HANSEN** and **McGEE**. Those voting against to Indefinitely Postpone SB 169 were **SENATORS MAHLUM, SCHMIDT** and **TROPILA**.

ADJOURNMENT

Adjournment: 4:52 P.M.

SEN. MIKE SPRAGUE, Chairman

JANE M. HAYDEN, Secretary

MS/JMH